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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/004,429	10/25/2001	Seymour Levine	57127	8221

22206 7590 09/15/2005

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EXAMINER

CHIN, GARY

ART UNIT

PAPER NUMBER

3661

DATE MAILED: 09/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/004,429	LEVINE, SEYMOUR	
	<b>Examiner</b>	<b>Art Unit</b>	
	Gary Chin	3661	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 June 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3,64,66-79,92,93 and 95 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,64,66-79,92,93 and 95 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. Claims 2-3, 69-74 and 76 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claim 2, lines 15-16 and claim 3, line 38, the antecedent basis for “said maintenance communication means” recited therein has not been set forth in these claims. Further, on line 37 of claim 3, the antecedent basis for “said maintenance advisory” also has not been set forth and should be changed to “said maintenance advisories” to rectify the problem.

As per claim 69, line 1, the dependency is unclear since there is no claim 645.

As per claim 72, line 2, the phrase “configured to transmit digital data on said communication network” is technically unclear. Is it meant “configured to transmit digital data to said communication network”? Further, is the “digital data” to be transmitted on line 2 directed to the “digital performance data” recited in the parent claim 64? If so, “said digital performance data” should be recited. Similarly, “digital data” on line 5 also should be changed to “said digital performance data”. Finally, on line 3, the antecedent basis for “said receiver” has not been set forth in the claim.

As per claim 74, line 2, the antecedent basis for “said aircraft performance and control parameters” also has not been established.

As per claim 76, line 2, the phrase “configured to transmit data on said communication network” should be “configured to transmit said data to said communication network” for the same reason as set forth above with regard to claim 72. Further, “data” on line 5 and

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“maintenance advice” on line 8 should be “said data” and “said maintenance advice” respectively in order to avoid the antecedent basis problem.

Claims that have not been specifically indicated are rejected for incorporating the above errors from their respective parent claims by dependency.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 64, 69-74 and 78-79 are again rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al (patent no. 5931877) in view of Kuroda et al (patent no. 5381140).

As per claims 1-3, 64, 69-74 and 78-79, the reason for the rejection based upon the combined teachings of Smith et al and Kuroda et al as set forth in the last office action dated 4/16/04 is maintained and incorporated herein by reference.

4. Claims 66-68 and 75-77 are again rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al and Kuroda et al and further in view of Monroe (patent no. 5798458).

As per claims 66-68 and 75-77, the reason for the rejection based upon the combined teachings of Smith et al, Kuroda et al and Monroe as set forth in the last office action dated 4/16/04 is also maintained and incorporated herein by reference.

5. Claims 92, 93 and 95 are again rejected under 35 U.S.C. 103(a) as being unpatentable over Kuroda et al in view of Monroe.

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As per claims 92-93 and 95, the reason for the rejection based upon the combined teachings of Kuroda et al and Monroe as set forth in the last office action dated 4/16/04 is also maintained and incorporated herein by reference.

6. In the "remarks" section of the amendment filed on 3/2/05, applicant essentially alleged that (1) the transmission of a configuration label along with the aircraft performance and control parameters as required in claims 1-3 has not been disclosed in neither the Smith et al reference nor the Kuroda et al reference, (2) the transmission or communication of the performance and control data while in-flight as required in claims 64 and 66-79 has not been disclosed in the Smith et al reference and (3) the storage as disclosed in Kuroda et al only provides storage for data necessary to predict a theoretical path of the aircraft and there is no disclosure therein of archival (long term storage) of performance and control data as required in claims 92-93 and 95.

7. In response, the examiner strongly disagrees with such allegations. As to allegation (1), although the aircraft configuration label has not been explicitly disclosed in the Smith et al or Kuroda et al reference, however, it would have been readily apparent for one skilled in the art that the transmitted aircraft ID data to the ground station in Kuroda et al is implicitly included the configuration label as claimed since the aircraft configuration label can be directly determined based upon the aircraft ID. Further, one skilled in the art would have recognized that the maintenance advisory generated in the Smith et al system must include the aircraft configuration in conjunction with other transmitted data in order to provide accurate maintenance advisories to a correct aircraft. As to allegation (2), although the feature of transmitting the performance and control data to the central ground station while the aircraft is in-flight has not been explicitly disclosed in the Smith et al reference, however, such feature of transmitting

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aircraft data to the ground station while in-flight is notoriously well known and clearly taught in figure 1 (also see column 3, lines 65 to column 4, lines 1-3) of the Kuroda et al reference. Hence, it is the examiner's contention that it would have been obvious for one skilled in the art that the real-time advisory as taught in Smith et al either already been using the in-flight data or would have been obvious to do so based upon the direct teaching found in the Kuroda et al reference. As to allegation (3) that there is no disclosure in Kuroda et al of long term storage or archival of performance and control data necessary for a crash data recorder, the examiner also disagrees with such allegation. As disclosed in figure 1 and columns 3-4 of the Kuroda et al reference, performance and control data from navigation device and the ADS airborne device (see column 1, lines 53-60) are being recorded in the storage device within the monitoring device while the aircraft is in-flight. Since there is no disclosure in the Kuroda et al reference as to the deletion of such data stored in the storage device, it would have been readily apparent to one skilled in the art that in the event of a crash, the stored crashed data such as aircraft position, velocity, course, wind and temperature (see col. 1, lines 53-60) can be readily retrieved and as such meets the limitations of a crash data recorder as claimed.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Chin whose telephone number is (571) 272-6959. The examiner can normally be reached on Monday-Friday 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas G. Black can be reached on (571) 272-6956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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**GARY CHIN**  
**PRIMARY EXAMINER**